



SOUTHERN UTE INDIAN TRIBE

May 11, 20226

The Honorable Jeff Hurd
Chairman
Subcommittee on Indian and Insular Affairs
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hurd:

Thank you for the opportunity to appear before the Subcommittee to present testimony on tribal resource development. We are grateful for the opportunity to discuss many of the Southern Ute Indian Tribe's successes in developing our natural resources, and the challenges we face with the federal permitting process, challenges that often cause unnecessary delays and often jeopardize development projects.

The Southern Ute Indian Tribe supports the SPEED Act and remains hopeful the bill will be enacted. The reforms included in this legislation will promote tribal sovereignty while improving efficiency. These reforms will strengthen environmental stewardship through local accountability and expertise, while reducing duplicative processes and delays associated with multiple layers of federal review. For tribes like Southern Ute, the reforms included in the SPEED Act would allow projects on tribal lands to move forward in a timely and responsible manner without compromising environmental or cultural protections.

Below are responses to the questions posed by Chairman Westerman. Please let us know if you need any additional information for the hearing record.

Thank you again for the opportunity to appear before the Subcommittee. We look forward to our continued engagement with you and your team on this important issue.

Sincerely,

The Honorable Andrew Gallegos
Councilman
Southern Ute Indian Tribe

- 1. Southern Ute has already shown that when tribes are allowed to use their own approved review process under the HEARTH Act, certain approvals can move much faster. You note that BIA determinations that used to take 3 to 6 months are now avoided because the Tribe can rely on its own process. The SPEED Act includes a provision allowing tribal environmental review to substitute for federal agency review in certain circumstances. How would that kind of reform help tribes like yours move projects on tribal lands more efficiently?**

Response:

The Southern Ute Indian Tribe's environmental review process is modeled closely on NEPA, but it is administered locally rather than through a federal agency. Under this framework, Tribal departments are directly responsible for ensuring that land, environmental, and cultural resources are appropriately protected. Because these reviewers live and work in the community, they have a deeper understanding of local conditions, Tribal values, and on-the-ground impacts than officials located elsewhere within the federal system.

Allowing tribal environmental review to substitute for federal agency review, as contemplated in the SPEED Act, would promote tribal sovereignty while improving efficiency. This reform strengthens environmental stewardship through local accountability and expertise, while reducing duplicative processes and delays associated with multiple layers of federal review. For tribes like Southern Ute, it would allow projects on tribal lands to move forward in a timely and responsible manner without compromising environmental or cultural protections.

- 2. Third-party challenges can delay or block projects that tribes themselves have already reviewed and supported. The SPEED Act includes tribal-specific provisions limiting certain administrative and judicial challenges for projects on tribal trust lands where the Tribe has consented. What kind of impact would these tribal specific provisions have on the Southern Ute?**

Response:

Limiting third-party challenges to projects on tribal trust lands is critically important to the Southern Ute Indian Tribe because those lands are held in trust for the exclusive benefit of our Tribal membership—not the general public. Fundamentally, if a tribe's proposed use of its land is not violating applicable law, we question why a third party should be able to block that use under the judicial review provisions of NEPA. The tribal-SPEED Act provisions are a significant step in addressing that issue. When projects have been thoroughly reviewed, approved, and supported by the Tribe, and do not adversely impact neighboring communities, the ability of outside parties to challenge those decisions can lead to costly litigation, unnecessary delays, and uncertainty that undermines tribal self-determination.

The Tribe supports the tribal-specific provisions in the SPEED Act because they reinforce tribal sovereignty and recognize the Tribe's authority to make informed decisions about activities occurring on its lands using its resources. By limiting inappropriate administrative and judicial challenges, these provisions would reduce delay, increase certainty, and allow responsible energy projects to move forward in a manner consistent with Tribal priorities and governance.

- 3. Could you explain what it means for the Southern Ute Tribe to have control of, and be active in, energy development on tribal lands?**

a. What has that control allowed the Tribe to deliver – whether that is jobs, revenue, or services – that would otherwise not be possible?

Response:

For the Southern Ute Indian Tribe, control over and active participation in energy development has evolved over decades, beginning with the creation of the Tribal Department of Energy in 1980. Initially, the Tribe focused on ensuring that its lands were leased at fair market value and that it was properly compensated for minerals produced from those lands. Once the Tribe established effective oversight of leasing and revenue collection, the focus shifted toward building internal capacity to actively participate in the development of its resources.

That evolution has delivered significant benefits. First, it has created direct employment opportunities for Tribal members by developing technical, regulatory, and operational expertise within the Tribe. Second, it has enabled the Tribe to invest its own capital and receive corresponding returns in the development of its resources, rather than leaving those investment opportunities solely to outside entities. While the Tribe supports responsible development and welcomes outside investment, the Tribe is not wholly-dependent on third parties to initiate or control development activities on the Reservation.

This level of control strengthens tribal sovereignty and self-determination over our lands and resources. It has also allowed the Tribe to generate sustained revenue that directly supports Tribal government operations and the delivery of essential services to Tribal members, including healthcare, education, housing, and other critical community programs. These services would not be possible at the same scale without active tribal participation in energy development.

4. Red Willow gives Southern Ute a rare side-by-side comparison. You have experience operating off-reservation, where projects can move more like ordinary business, and on tribal lands, where federal barriers still slow development. At a time when President Trump and this Congress are focused on restoring American energy dominance, that comparison is especially important. Based on Red Willow's experience, how does the ease of doing business off-reservation compare with the process of developing energy projects on tribal lands?

Response:

Red Willow's experience highlights a clear contrast between energy development off-reservation and on tribal lands. Because tribal lands and resources are held in trust by the federal government, any federal undertaking on those lands triggers review under the National Environmental Policy Act (NEPA). The Tribe supports responsible development and recognizes the value of NEPA when it is implemented as originally intended—to inform decision-making and balance environmental considerations with development needs.

However, over the past several decades, NEPA has increasingly functioned as a mechanism that can delay or discourage development rather than facilitate informed and timely decisions. Striking the right balance between environmental protection and efficient project execution is critical, and this concern applies to both federal and tribal lands.

By contrast, on private lands where NEPA often does not apply, permitting through state and local governments can be more streamlined. In those settings, regulators are often able to rely on standardized or programmatic approaches for recurring activities—such as permit-by-rule frameworks or general permits—that provide clarity, predictability, and efficiency while still meeting regulatory objectives. Red Willow's side-by-side experience demonstrates that similar approaches, if appropriately adapted, could significantly improve the ease and timeliness of responsible energy development on tribal lands.

- 5. In your testimony, you describe that even sophisticated tribes with deep expertise still encounter federal delay and uncertainty. Could you speak to the structure of the current system and where bottlenecks hit hardest? Is it in leasing, environmental review, rights-of-way, or somewhere else?**
- a. How do red tape and federal barriers impact a tribe's sovereignty to procure resources on trust lands?**
 - b. Beyond the SPEED Act, what additional reforms should Congress examine next to make tribal energy development more efficient?**

Response:

The primary structural challenge in the current system is that most key approvals are controlled by federal agencies that are institutionally and geographically removed from the on-the-ground conditions and priorities of our local community. Decision-making authority is centralized at the federal level, while the impacts of delay and uncertainty are borne locally by tribes.

In addition, the administration and interpretation of federal and tribal requirements are subject to change with each new federal administration. Shifts in policy priorities, procedural interpretations, or staffing can introduce uncertainty and inconsistency, even when statutory requirements remain unchanged. While tribes recognize that federal administrations change as a result of the democratic process, the management of tribal lands and resources—held in trust for the benefit of tribal members—should not be repeatedly destabilized by shifting federal priorities.

As a result of this structure, tribes, including Southern Ute, have experienced delays across all stages of development over the past several decades, including leasing, environmental review, and rights-of-way approvals. These bottlenecks persist even for tribes with substantial technical expertise and institutional capacity. For these reasons, we strongly support increased tribal control over our resources, which would reduce delay, improve accountability, and create a more predictable and efficient development framework.

Beyond the SPEED Act, Congress should focus on strengthening tribal capacity and self-determination in energy development. Providing targeted funding to build technical, legal, and administrative capacity in Indian country would enable more tribes to pursue Tribal Energy Resource Agreements (TERAs) and assume greater responsibility over energy development on their lands.

In addition, reforms should further shift the federal government's role from gatekeeper to partner—supporting tribes in implementing responsible energy development rather than creating procedural barriers. Empowering tribes with greater control and predictable processes would improve efficiency, reduce delays, and better align energy development with tribal priorities and long-term economic goals.

- 6. Southern Ute is also on track to be the first Tribe with a Tribal Energy Resource Agreement, or TERA. Congress created TERAs to give tribes more control over energy-related leasing, business agreements, and rights-of-way on tribal lands, but the process has not been widely used. Based on Southern Ute's experience, what should Congress understand about the TERA process, and what reforms would make it a more workable tool for tribal energy development?**

Response:

Clarifying which federal functions are considered "inherent federal functions" is critical to making the TERA process workable and predictable for tribes. Clear definitions

and a transparent, well-defined approval process would provide tribes with much-needed certainty and allow them to make informed decisions about whether—and how—to pursue a TERA.

The TERA statute addresses important, complex issues, including: tribal self-determination, federal trust duties, environmental impact review, and public disclosure. Nonetheless, the terms and structure of the TERA statute (25 U.S.C. § 3504) and its associated federal regulations (25 CFR Part 224) are substantially more complex than the corresponding statutory language of the HEARTH Act (25 U.S.C. § 415(h) and the Bureau of Indian Affairs guidance documents that address HEARTH Act approval (Indian Affairs Manual, Pt. 52, ch. 13) for issuance of surface leases. The level of statutory/regulatory complexity in those two programs is responsible in part for the disparity in the number of tribes that have entered into a TERA (we will be the first tribe) versus HEARTH Act approval of tribal leasing regulations (approximately 190 tribes). A comparative review of those provisions could be helpful.

Tribes often operate with limited staff and financial resources, so process certainty is essential to justify the significant investment required to apply for and implement a TERA. In addition, the TERA framework should be flexible enough to meet tribes where they are in terms of capacity. Some tribes may wish to assume only discrete energy-related functions initially, while continuing to build organizational expertise over time.

Southern Ute has been building energy development capacity for decades, including through a longstanding memorandum of understanding with the Bureau of Indian Affairs. That experience has positioned the Tribe to pursue a TERA, but many tribes would benefit from additional support. Congress could strengthen the effectiveness of TERAs by appropriating funding specifically for capacity-building in Indian Country, enabling tribes to gradually assume energy-related functions as their capabilities grow.